

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF INDIANA  
SOUTH BEND DIVISION**

TOKIO MARINE SPECIALTY  
INSURANCE COMPANY,

Plaintiff,

V.

K&S ENGINEERS, INC., WISCONSIN  
CENTRAL LTD., NORTHERN ILLINOIS  
GAS COMPANY d/b/a NICOR GAS  
COMPANY, MICHELS CORPORATION,  
BURNS & MCDONNELL ENGINEERING  
COMPANY, INC., D'ESCOTO, INC.,

Defendants.

Case No. 3:19-cv-00716-JD-MGG

## **NOTICE OF VOLUNTARY DISMISSAL**

COMES NOW Plaintiff, Tokio Marine Specialty Insurance Company (“Tokio Marine”), by counsel, pursuant to Fed. R. Civ. Pro. 41(a)(1)(A), and files its Notice of Dismissal, without prejudice. In support thereof, Plaintiff states the following:

1. Tokio Marine filed this lawsuit on September 5, 2019. (Dkt. 1, et seq.)
2. Defendant Northern Illinois Gas Company d/b/a Nicor Gas Company (“Nicor”) filed a Motion to Dismiss on October 3, 2019. (Dkt. 10)
3. Defendant Wisconsin Central Ltd. filed its appearance on October 24, 2019 (Dkt. 13, 14) and an Unopposed Motion for Extension of Time to Answer or Otherwise Plead on November 15, 2019. (Dkt. 15)
4. No defendant has filed either an answer or motion for summary judgment in this suit.
- 5.

6. The sole issue in this lawsuit concerns insurance coverage under a Tokio Marine Primary and Excess policy issued to defendant K&S Engineers, Inc.'s ("K&S") in connection with an underlying lawsuit to which the other defendants, including Nicor, are parties.

7. Tokio Marine and K&S, who has not yet appeared in this suit, came to an agreement regarding insurance coverage under the Tokio Marine policies, and at this time Tokio Marine hereby withdraws its claims in this lawsuit, without prejudice.

WHEREFORE, Plaintiff Tokio Marine Specialty Insurance Company, by counsel, and pursuant to Fed. R. Civ. Pro. 41(a)(1)(A) files its Notice of Dismissal, without prejudice.

LEWIS WAGNER, LLP

By /s/ Meghan E. Ruesch  
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**CERTIFICATE OF SERVICE**

This is to certify that I have served a copy of the foregoing upon all counsel of record, as follows, by first class U.S. mail, postage prepaid, on this 9th day of December 2019:

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